

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

MARK ANTHONY ORTEGA

VS

TRISMART SOLAR, LLC and  
JOSE MANUEL TURRUBIATES

§  
§  
§  
§  
§  
§

Case No. 5:25-CV-865-JKP-HJB

---

**DEFENDANT TRISMART SOLAR, LLC’S RESPONSE IN OPPOSITION TO  
PLAINTIFF’S MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT**

---

COMES NOW, TriSMART Solar, LLC, and makes and files this response in opposition to Plaintiff’s Motion for Leave to File Second Amended Complaint (ECF No. 30).

1. On November 5, 2025, this Court entered a scheduling order (ECF No. 16) based on the parties agreed dates. This Court agreed with the parties proposed deadline of January 12, 2026 for “any motion seeking leave to amend pleading or join parties.”

2. Plaintiff previously filed a motion for leave to amend pleadings (ECF No. 18). Defendant did not oppose that motion since it was timely made.

3. Here, Plaintiff filed his motion on January 15, 2026, several days past the deadline Plaintiff agreed to. Accordingly, Defendant is opposed to the untimely motion.

4. Additionally, Defendant would be prejudiced if the Court granted the motion. If this motion is granted, Plaintiff will be required to serve a new party. That new party will have to make an appearance, delaying any work on the case until this new party is added, which will require an extension of the remaining deadlines.

5. Plaintiff’s proposed Second Amended Complaint adds a single claim under the Texas Uniform Fraudulent Transfer Act. This Texas UFTA claim does not overlap Plaintiff’s other

claims, and would effectively create a case within a case. Unless the Plaintiff is successful on his underlying claims, any allegation of a fraudulent transfer is irrelevant. Therefore, Defendant is likely to incur unnecessary costs in discovery and defense of a claim that cannot be considered until there is a determination on the underlying damage claims.

6. Finally, Plaintiff does not face prejudice if his motion is denied. Even if Plaintiff's underlying suit resulted in a judgment against the Defendant, and Defendant was unable to pay that judgment, Plaintiff would not be barred from pursuing a Texas Uniform Fraudulent Transfer Act claim at that time.

7. For these reasons, Defendant respectfully requests that the Court deny Plaintiff's Motion for Leave to File Second Amended Complaint.

Respectfully submitted,

TRISMART SOLAR, LLC

/s/ Timothy R. Allen

**TIMOTHY R. ALLEN**

Texas Bar No. 24092028

600 Northpark Central Dr., Suite 140

Houston, TX 77073

512-577-9048

tallen@trismartsolar.com

timothyallenlaw@gmail.com

**Certificate of Service**

I certify that on February 12, 2026, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court for the Western District of Texas, using the electronic case filing system of the Court. I hereby certify that I have served all counsel of record and pro-se parties electronically.

/s/ Timothy R. Allen

**TIMOTHY R. ALLEN**